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December 10, 1997

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

92-237

RECEIVED

DEC 10 1997

Dear Ms. Salas:

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Transmitted herewith, on behalf of Hillsboro Telephone Company, Inc., are an original and four copies of a Petition for Limited Waiver of the January 1 deadline for converting local exchange carrier switches to 4-digit Feature Group D carrier identification code functionality. The attached Declaration of Charles Hammer bears a facsimile signature. The original signed Declaration will be filed with the Commission upon receipt by counsel.

Should the Commission have any questions with respect to the Petition, please communicate directly with the undersigned.

Very truly yours,

Michael R. Bennet

Michael R. Bennet

Enclosure

cc: Kris Monteith
Elizabeth Nightingale

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

DEC 10 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Administration of the North American)
Numbering Plan, Carrier Identification)
Codes (CICs))

CC Docket No. 92-237

To: Common Carrier Bureau

PETITION FOR LIMITED WAIVER

Hillsboro Telephone Company, Inc. ("HTC"), by its attorneys, and pursuant to Section 1.3 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), hereby requests a limited waiver of the January 1, 1998 deadline established by the *Second Report and Order*¹ in this proceeding for upgrading local exchange carrier ("LEC") end office switches to accept four-digit Feature Group D Carrier Identification Codes ("CICs"). HTC requests a limited waiver until December 1, 1998 to comply with the four-digit CIC requirement. In support of this request, the following is shown.

¹ *Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Petition for Rulemaking of VarTec Telecom, Inc.*, Second Report and Order, CC Docket No. 92-237, FCC 97-125, released April 11, 1997 ("*Second Report and Order*") at paragraph 27. The January 1, 1998 deadline for 4-digit CIC capability was affirmed in the Commission's recent order on reconsideration. *Administration of the North American Numbering Plan, Carrier Identification Codes (CICs)*, Order on Reconsideration, Order on Application for Review, and Second Further Notice of Proposed Rulemaking, CC Docket No. 92-237, FCC 97-386, released October 22, 1997 ("*Reconsideration Order*") at paragraph 20.

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Background

HTC is an incumbent LEC serving approximately 1600 access lines in the Hillsboro area in southwestern Wisconsin. HTC became an equal access provider in 1990. HTC began planning for the conversion to 4-digit CIC capability in 1995 in response to the issuance of the Notice of Proposed Rulemaking in this proceeding which proposed a six year transition to 4-digit CIC capability. HTC determined that its Nortel, Inc. ("Nortel") DMS-10 switch, installed in 1985, would require substantial hardware and software modifications to achieve 4-digit CIC capability. Specifically, the switch would need to be retrofitted with numerous hardware modifications, including a new central processor, memory packs and network packs, and would require an upgrade of its operating system software from 402.53 to a minimum of 405.20. HTC determined that the cost of the central office equipment component of an overall network modernization plan including these upgrades would be approximately \$746,000.

Due to the substantial cost of the required upgrades, HTC initiated the process of obtaining a Rural Utilities Service ("RUS") Hardship Loan in late 1995. Following the release of the *Second Report and Order* in April of 1997 which moved the deadline for conversion to 4-digit CIC capability from the year 2000 to January 1, 1998, HTC immediately submitted its formal loan proposal to RUS in May of 1997. Approval of HTC's loan request remains pending, but is expected by February 1998. Thereafter, pursuant to RUS procedures, the following steps (with estimated timeframes) must occur prior to commencement of installation:

- (1) Submit plans and specifications to RUS for review and approval, and wait for RUS approval (6 weeks)
- (2) Solicit proposals, and wait for Nortel and other bidders to prepare and respond with proposals (6 weeks)

(3) Conduct engineering review of proposals in consultation with RUS field engineer (4 weeks)

(4) Review of proposals by RUS headquarters office in Washington, D.C., and wait for RUS approval to execute contract (3 weeks)

(5) Prepare, assemble and execute contract documents and submit to RUS for review and approval; wait for RUS approval of contract (2 weeks)

Under RUS procedures, HTC may not place an order with an equipment manufacturer for equipment which is the subject of the loan prior to the approval of such loan without jeopardizing the approval of such loan request. *See* 7 C.F.R. §§ 1753.1(b), 1753.3(b). However, based on Nortel's average installation times, HTC expects that the conversion to 4-digit CIC capability will take four months from the time a formal order is placed, and conversion will therefore be unable to occur prior to December 1, 1998.

In October of 1997, HTC had several discussions with Ameritech about the possibility of Ameritech performing the conversion. Ameritech informed HTC that it was not capable of performing a 4-digit CIC conversion. HTC then explored the possibility of Ameritech's Madison, Wisconsin Tandem switch performing special translations for three to four digit conversion. However, such translations require the establishment of pseudo 3-digit CICs, and would be difficult and costly to administer. Ameritech informed HTC that it was unwilling to incur such expense and it would not agree to perform such translations for a single switch.

Discussion

Good cause exists for the requested waiver. "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with

the public interest.” *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969); *see also* *Northeast Cellular Telephone Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). In the instant case, application of the January 1 deadline to HTC would be extremely inequitable and inconsistent with the public interest. HTC has been diligent in its efforts to comply with the conversion deadline. HTC began planning for the conversion in 1995 and expedited its efforts to obtain RUS approval earlier this year when the Commission accelerated the conversion deadline by two years. The 8 month notice period provided by the Commission with respect to the newly accelerated deadline left HTC with no reasonable alternative. HTC was unable to afford the significant expense associated with the upgrades without a loan from RUS.² By relying on RUS, HTC was subject to the loan processing timetable of that government agency. While HTC notified RUS of the urgency of its request with respect to meeting an FCC deadline, it had no ability to expedite the process once the loan request was filed in May of 1997. As discussed above, HTC cannot take other steps to accelerate Nortel’s provision of the equipment, software and services related to the upgrades without jeopardizing its pending loan request. Given the backlog of work for Nortel stemming from the recent influx of orders from local exchange carriers rushing to meet the January 1 deadline, and the estimated timetable for Nortel to accommodate HTC’s upgrade requirements, the products and installations necessary to

² Although RUS is not the only potential source of funding for the network upgrades, it is the only affordable source of such funding. HTC has applied for a RUS Hardship Loan which has a locked in interest rate of 5%. *See* Rural Electrification Loan Restructuring Act of 1993, 7 U.S.C. § 935(c). Even if RUS ultimately determines that HTC does not qualify for such a loan, the standard RUS loan rate (“the current cost of money to the Government”, 7 U.S.C. § 935(d)(2)(A)) is significantly lower than any loan available from an outside source. RUS funding is integral to HTC’s network modernization plan.

accomplish the upgrade will not be available to HTC prior to January 1, and even if RUS loan and contract approval were obtained today (an event which is unlikely to occur before July of 1998), the products and installations necessary to complete the upgrade would not be available to HTC before April of 1998. Ameritech's inability and refusal to provide HTC with 4-digit conversion capability or 3-digit translation to 4-digit capability respectively eliminated the only other alternative potentially available to HTC.

In its December 3, 1997 order granting a limited waiver of the January 1 four-digit CIC code capability deadline for a group of rural telephone companies, the Commission recognized the technical and economic burden placed on small and rural local exchange carriers by the January 1 deadline. *Clarks Telecommunications Co., et al.; Petitions for Waiver of the Four-Digit Carrier Identification Code (CIC) Implementation Schedule, Order*, NSD File Nos. 97-53; 97-56; 97-46; 97-51; 97-54; 97-55; 97-47; 97-38; 97-49; 97-50, DA 97-2528, released December 3, 1997 ("CIC Waiver Order"). In the *CIC Waiver Order* the Commission concluded that a small rural telephone company which had initiated the RUS process in connection with its conversion to four-digit CIC capability in early 1997 demonstrated sufficient diligence to satisfy the standard for a waiver. The Commission also concluded that for rural telephone companies serving an equal or greater number of access lines than HTC, "the impact of an extension of the conversion deadline on the IXCs served by [those companies], and on the ability of those LECs' customers to reach IXCs through CAC dialing, does not outweigh the burden on the LECs that would be imposed by a denial of their petitions for waiver." *CIC Waiver Order* at paragraph 18.

Although the Commission in the *CIC Waiver Order* did not extend any waivers beyond June 30, 1997, the only parties who actually requested waivers beyond July 1, 1997³ utterly failed to demonstrate the diligence in attempting to meet the January 1 conversion deadline shown by HTC. At the time the Clarks, Eustis/Home and Henderson waiver petitions were filed, those companies had not even decided how they intended to meet the 4-digit CIC conversion requirement (*i.e.*, whether to upgrade or replace their respective switches). By contrast, HTC had not only made that decision virtually as soon as the accelerated deadline was announced, HTC had *immediately* taken steps to implement its decision to upgrade its switch. Given the diligence shown by HTC and the timing constraints of the RUS process, the burdens HTC would face if required to fund its \$746,000 network modernization from outside the RUS⁴ far outweigh the impact of a five month delay (beyond the June 30 deadline for IXCs) on the IXCs served by HTC, and on the ability of HTC's customers to reach IXCs through CAC dialing.

In light of these specific facts and circumstances, HTC submits that good cause exists for a limited waiver of the January 1, 1998 deadline until December 1, 1998 for conversion of HTC's switch to 4-digit CIC functionality. HTC has made every reasonable effort to meet the Commission's deadlines using the most technically efficient and economically rational solutions.

³ Clarks Telecommunications Co. ("Clarks"), Eustis Telephone Exchange, Inc. and Home Telephone Company of Nebraska ("Eustis/Home"), and Henderson Telephone Company ("Henderson") each requested a two-year extension of the switch conversion deadline, until January 1, 2000.

⁴ In addition to the substantial increase in the cost of capital (as discussed above) that would result from a requirement that HTC obtain funding from a non-RUS source, the time involved in securing another loan would stretch well beyond January 1, 1998 and, given the eight month headstart of the RUS loan request, could potentially equal or surpass the time required to secure RUS approval.

Given the diligence shown by HTC, the unavailability of equipment and installations necessary to meet the January 1 conversion deadline, and the burden that would be imposed on HTC if a waiver is not granted, grant of the instant request, allowing HTC to continue its efficient network modernization plan, is consistent with the public interest.

Respectfully submitted,

HILLSBORO TELEPHONE COMPANY, INC.

By Michael R. Bennet
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December 10, 1997

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Declaration of Charles Hammer

I, Charles Hammer, Vice President and General Manager of Hillsboro Telephone Company, Inc., do hereby declare under penalty of perjury the following:

1. I am a duly authorized representative of Hillsboro Telephone Company, Inc.
2. I have reviewed the foregoing Petition for Limited Waiver and, to the best of my belief and knowledge, the facts presented therein are true and correct.

Executed this 10 day of December, 1997.


Charles Hammer

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Certificate of Service

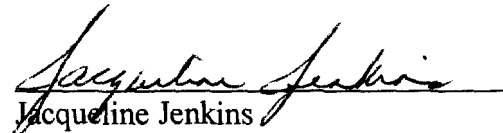
I, Jacqueline Jenkins, an employee in the law firm of Bennet & Bennet, PLLC, hereby certify that a copy of the foregoing Petition for Limited Waiver, has been served via hand delivery, this 10th day of December, 1997, on the following:

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